SG.2
Acting Head of Division

Brussels, 24 January 2022
eas.sg.2 (2021) 7026966

To
Mr Finbarr Bermingham
by electronic mail

Subject: Your request for access to documents of 11 October 2021
Our ref: 2021/146

Dear Mr Bermingham,

The EEAS has examined your request for access to documents in the framework of Regulation (EC) No 1049/2001.¹

Please be informed that the High Representative and the European Commission publish joint reports on Hong Kong on a yearly basis. These reports analyse at length the political and economic situation, including the topics specifically mentioned in your request for access to documents. All the annual reports are available online including the ones covering the period mentioned in your request, which are 2019² and 2020³. The report covering 2021 is expected to be released during the first half of 2022. Furthermore, the High Representative and his spokesperson have regularly made public the EU’s views on the topics mentioned in the request.

Concerning your request to receive “a list of meetings of EEAS and/or representatives (including the HRVP and Cabinet, and offices abroad) and representatives of the Hong Kong government, and/or third party agencies representing the Hong Kong government, between January 2019 and today”, please be informed that the EU-Hong Kong Structured Dialogue, which is the institutionalised formal format of meeting between the EU and Hong Kong authorities, has not taken place in 2020 and 2021. The last EU-Hong Kong Structured Dialogue took place on 28 November 2019⁴.

Regarding your request to receive the minutes and other reports of these meetings, please note that the Joint Press Release of the Structured Dialogue meeting between the Government of the Hong Kong Special Administrative Region and the EU, which took place on 28 November 2019, is available online.

Regarding the detailed minutes of the meeting, please be informed that the Structured Dialogue is held in the spirit of openness between the diplomatic actors, which means that the diplomatic interlocutors discuss topics in an open manner but with the understanding that such discussions will remain within the diplomatic circles and will not be released to other international actors or to the general public.

Our examination concluded that their disclosure to the general public would be detrimental to the Union’s relations with Hong Kong and harm the possibility to maintain the environment of mutual trust, thus negatively affecting the possibility of holding such dialogues in the future or their substance.

Therefore, I regret to inform you that we are not in a position to disclose these documents at this point in time, neither as a whole or partially, since it would seriously jeopardize both the EU's relations with Hong Kong and put at risk the bilateral dialogue as per Article 4(1)(a), third indent, of the Regulation.

Concerning your request to receive “all internal correspondence (including emails) between EEAS officials and/or representatives (including the HRVP and Cabinet, and offices abroad) discussing Hong Kong's protest movement, the Hong Kong national security law, EU Council conclusions on Hong Kong, the closure of Apple Daily and the electoral reform in Hong Kong (from January 2019 and today)”, our examination concluded that these documents contain opinions for internal use as part of deliberations and preliminary consultations within the EEAS. Internal exchanges and preliminary considerations, proposals and discussions on these proposals are held in the spirit of openness but under the umbrella of confidentiality, which means that the staff discuss topics – often sensitive ones – in an open manner but with the understanding that such discussions which reveal the margin of manoeuver of the EU, will remain within the EEAS and will not be released to other international actors or to the general public. In addition, the political situation in Hong Kong is evolving, with on-going discussions and work related to it, which means that the disclosure of these internal discussions would directly harm the on-going diplomatic efforts. Finally, disclosing internal discussions could also affect and put in danger the work of the EU Office on the ground as well as the individuals and partners with whom the EU is working with.

Therefore, I regret to inform you that we are not in a position to disclose these documents at this point in time, neither as a whole or partially, since it would seriously undermine the EU’s international relations.

Regarding “all internal correspondence - including emails, records of and minutes of any meetings, between EEAS officials and or/representatives, including the HRVP and Cabinet and offices abroad and the Hungarian government and/or representatives of Hungary's government at home or abroad on issues relating to Hong Kong since January 2019” - please be informed that the disclosure of these information to the general public could harm EU’s international relations with its Member States. Internal correspondence between EEAS and Member States is done in a spirit of trust. Interlocutors discuss in an open manner in order to reach a compromise and a common position but with the understanding that such discussions will remain within the diplomatic circles and will not be released to other international actors.

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or to the general public. The EU has to maintain an environment of mutual trust with its Member States so it does not reveal its margin of manoeuvre to make compromises when reaching common positions vis-à-vis third countries to adverse actors to the EU.

Therefore, I regret to inform you that we are not in a position to disclose these documents at this point in time, neither as a whole or partially, since it would seriously harm EU’s international relations, as per Article 4(1)(a), third indent, and the internal decision-making process on common EU positions as per Article 4(3), first indent, of the Regulation.

We nevertheless stand ready to organise a background briefing and have a discussion with you on the file and answer the questions you may have.

Should you wish this position to be reviewed, you may confirm your initial request within 15 working days.

Yours sincerely,

[e-signed]

Guillem Riutord Sampol

Electronically signed on 24/01/2022 19:59 (UTC+01) in accordance with article 11 of Commission Decision C(2020) 4482